

Kimmel & Silverman, P.C.
30 East Butler Pike
Ambler, PA 19002
Telephone: (215) 540-8888
Attorney of Record: Amy Bennecoff Ginsburg (AB0891)
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY**

Case No.: **COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff,)
v.)
Kohl's Department Stores, Inc.,)
Defendant.)

COMPLAINT

JEANETTE AGUILAR (“Plaintiff”), by and through her counsel, Kimmel & Silverman, P.C., alleges the following against KOHL’S DEPARTMENT STORES, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of New Jersey and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Newark, New Jersey 07107.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a lender with its principal place of business located at 17000
wood Drive, Menomonee Falls, Wisconsin 53051.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that she has had for over a year.

11. Plaintiff has only used this number as a cellular telephone number.

12. The phone number has been assigned to a cellular telephone service for which
it incurs a charge for incoming calls.

Plaintiff incurs a charge for incoming calls.

13. Beginning in or around June 2015 and continuing through late June 2016, Defendant called Plaintiff on her cellular telephone on a repetitive and continuous basis.

14. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and automatic and/or pre-recorded messages.

15. Plaintiff knew the calls were automated as each time she received a call from Defendant there was a noticeable delay prior to being transferred to a collector.

16. Defendant's telephone calls were not made for "emergency purposes".

17. In late January or early February 2016, Plaintiff told Defendant to stop calling, revoking any consent previously given to Defendant to place telephone calls to her cellular telephone number.

18. Defendant heard and acknowledged Plaintiff's revocation of consent and demand to stop calling her cellular telephone number by telling Plaintiff that a note would be put in her file regarding her request for the calls to cease.

19. Despite the above, Defendant persisted in calling Plaintiff's cellular telephone.

20. Upon information and belief, Defendant operates in a manner which violates the Telephone Consumer Protection Act.

**DEFENDANT VIOLATED THE
TELEPHONE CONSUMER PROTECTION ACT**

21. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

22. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

23. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.

24. Defendant's calls to Plaintiff were not made for emergency purposes.

25. Defendant's calls to Plaintiff, after late January 2016 or early February 2016, were not made with Plaintiff's prior express consent.

26. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

27. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

1 28. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
2 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles
3 damages.

4 WHEREFORE, Plaintiff, JEANETTE AGUILAR, respectfully prays for judgment as
5 follows:

- 6 a. All actual damages suffered pursuant to 47 U.S.C. §227(b)(3)(A);
7 b. Statutory damages of \$500.00 per violative telephone call pursuant to 47
8 U.S.C. §227(b)(3)(B);
9 c. Treble damages of \$1,500 per violative telephone call pursuant to 47
10 U.S.C. §227(b)(3);
11 d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3); and
12 e. Any other relief deemed appropriate by this Honorable Court.
13

14

15 **DEMAND FOR JURY TRIAL**

16 PLEASE TAKE NOTICE that Plaintiff, JEANETTE AGUILAR, demands a jury trial
17 in this case.

18

19 **CERTIFICATION PURSUANT TO L.CIV.R.11.2**

20 I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not
21 subject to any other action pending in any court, arbitration or administrative proceeding.
22

Respectfully submitted,

Dated: November 1, 2016

By: /s/ Amy Lynn Bennecoff Ginsburg
Amy Lynn Bennecoff Ginsburg, Esquire
Kimmel & Silverman, P.C.
30 East Butler Pike
Ambler, Pennsylvania 19002
Phone: (215) 540-8888
Facsimile: (877) 788-2864
Email: aginsburg@creditlaw.com